

#### § 418.3420

that the value of your resources has changed as described in § 418.3120.

(b) *Equity value.* Resources, other than cash, are evaluated according to your (and your spouse's, if any) equity in the resources. For purposes of this subpart, the equity value of an item is defined as the price for which that item, minus any encumbrances, can reasonably be expected to sell on the open market in the particular geographic area involved.

(c) *Relationship of income to resources.* Cash you receive during a month is evaluated under the rules for counting income during the month of receipt. If you retain the cash until the first moment of the following month, the cash is countable as a resource unless it is otherwise excludable.

#### § 418.3420 How are funds held in financial institution accounts counted?

(a) *Owner of the account.* Funds held in a financial institution account (including savings, checking, and time deposits also known as certificates of deposit) are considered your resources if you own the account and can use the funds for your support and maintenance. We determine whether you own the account and can use the funds by looking at how the account is held.

(b) *Individually-held account.* If you are designated as the sole owner by the account title and you can withdraw and use funds from that account for your support and maintenance, all of that account's funds are your resource regardless of the source. For as long as these conditions are met, we presume that you own 100 percent of the funds in the account. This presumption is not rebuttable.

(c) *Jointly-held account.* (1) If you are the only subsidy claimant or subsidy recipient who is an account holder on a jointly held account, we presume that all of the funds in the account belong to you. If more than one subsidy claimant or subsidy recipient are account holders, we presume that the funds in the account belong to those individuals in equal shares.

(2) If you disagree with the ownership presumption as described in paragraph (c)(1) of this section, you may rebut the presumption. Rebuttal is a procedure

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which permits you to furnish evidence and establish that some or all of the funds in a jointly-held account do not belong to you.

#### § 418.3425 What resources do we exclude from counting?

In determining your resources (and the resources of your spouse, if any) the following items shall be excluded:

(a) *Your home.* For purposes of this exclusion, a home is any property in which you (and your spouse, if any) have an ownership interest and which serves as your principal place of residence. This property includes the shelter in which an individual resides, the land on which the shelter is located, and outbuildings;

(b) *Non-liquid resources, other than nonhome real property.* Non-liquid resources are resources that are not liquid resources as defined in § 418.3405. Irrevocable burial trusts and the irrevocable portion of prepaid burial contracts are considered non-liquid resources;

(c) Property of a trade or business which is essential to the means of self-support as provided in § 416.1222 of this chapter;

(d) Nonbusiness property which is essential to the means of self-support as provided in § 416.1224 of this chapter;

(e) Stock in regional or village corporations held by natives of Alaska during the twenty-year period in which the stock is inalienable pursuant to the Alaska Native Claims Settlement Act (see § 416.1228 of this chapter);

(f) Life insurance owned by an individual (and spouse, if any) to the extent provided in § 416.1230 of this chapter;

(g) Restricted allotted Indian lands as provided in § 416.1234 of this chapter;

(h) Payments or benefits provided under a Federal statute where exclusion is required by such statute;

(i) Disaster relief assistance as provided in § 416.1237 of this chapter;

(j) Funds up to \$1,500 for the individual and \$1,500 for the spouse who lives with the individual if these funds are expected to be used for burial expenses of the individual and spouse;

(k) Burial spaces, as provided in § 416.1231(a) of this chapter;

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(l) Title XVI or title II retroactive payments as provided in §416.1233 of this chapter;

(m) Housing assistance as provided in §416.1238 of this chapter;

(n) Refunds of Federal income taxes and advances made by an employer relating to an earned income tax credit, as provided in §416.1235 of this chapter;

(o) Payments received as compensation incurred or losses suffered as a result of a crime, as provided in §416.1229 of this chapter;

(p) Relocation assistance from a State or local government, as provided in §416.1239 of this chapter;

(q) Dedicated financial institution accounts as provided in §416.1247 of this chapter;

(r) A gift to, or for the benefit of, an individual who has not attained 18 years of age and who has a life-threatening condition, from an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code. The resource exclusion applies to any in-kind gift that is not converted to cash, or to a cash gift that does not exceed \$2,000; and

(s) Funds received and conserved to pay for medical and/or social services as provided in §416.1103 of this chapter.

### ADJUSTMENTS AND TERMINATIONS

#### **§418.3501 What could cause us to increase or reduce your subsidy or terminate your subsidy eligibility?**

(a) Certain changes in your circumstances could cause us to increase or reduce your subsidy or terminate your subsidy eligibility. These changes include (but are not limited to) changes to:

- (1) Your income;
- (2) Your spouse's income if you are married and living with your spouse;
- (3) Your resources;
- (4) Your spouse's resources if you are married and living with your spouse; and
- (5) Your family size.

(b) We will periodically review your circumstances (as described in §418.3125) to make sure you are still eligible for a subsidy and, if eligible, whether you should receive a full or partial subsidy.

(c) If you report that your circumstances have changed or we receive other notice of such a change after we determine that you are eligible, we will review your circumstances as described in §418.3120 to determine if you are still eligible.

#### **§418.3505 How would an increase, reduction or termination affect you?**

(a) An *increase* in your subsidy means that you would be able to pay a lower premium to participate in the Medicare Part D prescription drug program. An increased subsidy may also result in a reduction in any deductible or copayments for which you are responsible.

(b) A *reduction* in your subsidy means that you would have to begin to pay a premium or a higher premium to participate in the Medicare Part D prescription drug program. You may also have to begin to pay a deductible and higher copayments or increase the amounts of these payments.

(c) A *termination* means that you would no longer be eligible for a subsidy under the Medicare Part D prescription drug program.

#### **§418.3510 When would an increase, reduction or termination start?**

We are required to give you a written notice of our proposed action before increasing, reducing, or terminating your subsidy. We will not give this advance notice where we have factual information confirming your death, such as through a report by your surviving spouse, a legal guardian, a close relative, or a landlord. The notice will tell you the first month that we plan to make the change. The notice will also give you appeal rights which are explained in detail in §§418.3601 through 418.3670. Your appeal rights for a reduction or termination will include the right to continue to receive your subsidy at the previously established level until there is a decision on your appeal request if your appeal is filed within 10 days after you receive our notice. You will not be required to pay back any subsidy you received while your appeal was pending.